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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,411	10/23/2003	Richard R. Tracy	12,453	1932

7590 06/28/2005

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EXAMINER

SUKMAN, GABRIEL S

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/693,411

Applicant(s)

TRACY ET AL.

Examiner

Gabriel S. Sukman

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/23/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-6, 9, and 10-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites that the ratio of the maximum thickness to chord length varies from "about 3.5 to about 1.5." This is indefinite because these values should be indicated as percentages.

Claim 5 depends from claim 4 and is therefore rejected as being indefinite as well.

Claim 6 recites the limitation "said locations" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 is indefinite because it is unclear what value is meant to be represented by "bluntness" and therefore, how to determine whether that value makes up the claimed percentage of the thickness.

Claim 10 recites the limitation "the fuselage indentation" in lines 5-6 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claims 11-16 depend from claim 10 and are therefore rejected as being indefinite as well.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,149,101 to Tracy.

Tracy teaches all of the limitations of claim 1 in the disclosure of the '101 patent, which includes a distinct reference to and discussion of figure 9(b) of U.S. Patent No. 5,322,242. Accordingly, the wing having a camber at the leading edge having a blunted sharpness is taught by the cambered and blunt front flap shown in figure 9(b) of the '242 patent, which is incorporated into the invention of the '101 patent in col. 13, lines 34-38. Further, the '101 patent teaches a leading edge sweep of between 0° and 30° (col. 10, lines 19-31) and therefore teaches the limitation that the wing has a sweep of "less than about 20°." The wing of the '101 patent clearly has an average thickness to chord ratio of less than 3% as seen in figure 2 and the fuselage clearly has area-ruled indentations as claimed.

Figure 7 of the '101 patent clearly teaches wings having a trapezoidal configuration as claimed in claim 2.

Claim 3 is clearly taught by the tail and engine locations of the '101 patent.

Claim 4 is anticipated by the '101 patent as well in view of figure 2, which shows that the maximum thickness to chord length ratio varies from about 3.5% to 1.5%.

Claims 5 and 6 are anticipated by the '101 patent as can be seen in figure 8, which shows the taper of the wing as claimed.

Claim 7 is clearly anticipated by the locations of the wings and fuselage indentations as shown in figure 6 of the '101 patent.

Claim 8 is clearly anticipated by the disclosure and teachings of the '101 patent.

Claim 9 is anticipated by the blunted sharpness depicted in figure 9(b) of the '242 patent, which is incorporated into the disclosure of the '101 patent in col. 13, lines 34-38.

Claim 10 is clearly anticipated as per the discussion of claim 1 and in view of figure 2 of the '101 patent.

Claim 11 is anticipated as per the discussion of claim 1, above.

Claim 12 is anticipated as per the discussion of claim 2, above.

Claim 13 is anticipated as per the discussion of claim 3, above.

Claim 14 is anticipated as per the discussion of claims 5 and 6, above.

Claim 15 is anticipated as per the discussion of claim 7, above.

Claim 16 is also anticipated since the tail is taught to have substantially the same configuration as the wings.

Claim 17 is clearly anticipated as per the discussion of claim 1, above, since the teachings of the '101 patent pertaining to the leading edge sweep likewise apply to and anticipated the limitations in claim 17.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,322,242 to Tracy

U.S. Patent No. 5,897,076 to Tracy

U.S. Patent No. 5,518,204 to Tracy

U.S. Patent No. 5,842,666 to Gerhardt et al.

U.S. Patent No. 2,709,052 to Berg

U.S. Design Patent No. D 179,348 to Johnson

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel S. Sukman whose telephone number is (571) 272-6883. The examiner can normally be reached on M-F, 8:30-6:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3641

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL J. CAYONE  
SUPERVISORY PATENT EXAMINER